

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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RICHARD VITELLO,

Plaintiff(s),

-against-

JAMES WITHAM,

Defendant(s).

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**WALL, Magistrate Judge:**

**ORDER**

CV07-4322 (ADS)(WDW)

Before the court is the plaintiff's letter motion seeking an order compelling the defendant to produce initial disclosures and to appear for his deposition, or, alternatively, that the defendant's answer be stricken and a default entered. DE[22]. The defendant opposes the motion by a cross-motion, but offers to appear for a telephone conference, and if that is unacceptable to the plaintiff, to extend discovery for 60 days "to see what develops" in a bankruptcy case in Delaware, in which the defendant claims some involvement. DE[23]. The plaintiff does not agree to a telephone deposition. DE[24].

The court will extend the discovery period, which has already had one thirty day extension, to allow for the plaintiff's production of his initial disclosures by **February 23, 2009** and his appearance in New York for his deposition by **March 10, 2009**. The defendant shall also serve a written response to the document demand by **February 23, 2009** if he has not already done so. A status conference will be held on **March 11, 2009 at 11:00 a.m.** The defendant is warned that failure to comply with this order may result in a recommendation that his answer be stricken and a default entered.

Dated: Central Islip, New York  
February 4, 2009

**SO ORDERED:**

/s/ William D. Wall

WILLIAM D. WALL

United States Magistrate Judge